

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

XAIVER MICHAEL MAGANA,

Plaintiff,

v.

RICHARD MORGAN, et al.,

Defendant.

CASE NO. 16-5589 RJB-KLS

ORDER DISMISSING CASE

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom (Dkt. 8), Plaintiff's Motion to Extend Time (Dkt. 9), Plaintiff's Motion to Voluntarily Dismiss Complaint (Dkt. 11) and Plaintiff's Motion for Waiver of Civil Filing Fees and Surcharges (Dkt. 12). The Court has considered the Report and Recommendation, the pleadings filed regarding the motions, and the remaining file.

I. FACTS

The case was filed on July 5, 2016. Dkt. 1. Plaintiff was granted *in forma pauperis* status. Dkt. 4. On review of the Complaint, several deficiencies were noted, and Plaintiff was

1 given an opportunity to file an amended pleading to correct the errors. Dkt. 6. Plaintiff filed an
2 Amended Complaint on September 6, 2016. Dkt. 7.

3 On September 14, 2016, the Report and Recommendation was filed. Dkt. 8. It
4 recommends dismissal of this case without prejudice for failure to state a claim on which relief
5 may be granted. *Id.* Plaintiff filed his Motion to Extend Time on September 29, 2016. Dkt. 9.
6 Plaintiff requested that he be given until October 14, 2016 to file objections to the Report and
7 Recommendation. *Id.*

8 On October 13, 2016, Plaintiff filed a Motion to Voluntarily Dismiss Complaint. Dkt.
9 11. Plaintiff requests that the dismissal be without prejudice. *Id.*

10 Plaintiff also filed, on October 13, 2016, a Motion and Declaration for Waiver of Civil
11 Filing Fees and Surcharges. Dkt. 12. In this motion, Plaintiff seeks an order from the court,
12 “waiving civil filing fees and surcharges.” *Id.* Plaintiff cites “General Rule 34” and Washington
13 State court cases. *Id.* Defendants have not appeared in the case.

14 II. DISCUSSION

15 Plaintiff’s motion to voluntarily dismiss this case without prejudice (Dkt. 11) should be
16 granted. The Report and Recommendation (Dkt. 8) and Plaintiff’s motion for extension of time
17 to file objections to the Report and Recommendation (Dkt. 9) should be denied as moot.

18 Plaintiff’s Motion and Declaration for Waiver of Civil Filing Fess and Surcharges (Dkt.
19 12) should be denied. Under 28 U.S.C. § 1915(b)(1), “[n]otwithstanding subsection (a), if a
20 prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required
21 to pay the full amount of the filing fee.” Dismissal of a case does not relieve the Plaintiff of the
22 responsibility of paying the filing fee in this matter. Plaintiff’s citation to Washington Rule of
23 Civil Procedure 34, “Waiver of Court and Clerk's Fees and Charges in Civil Matters on the Basis
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1 of Indigency,” and Washington State court cases are unhelpful to Plaintiff in this federal case.
2 Accordingly, the Court should deny Plaintiff’s motion to waive the amounts owed on the filing
3 fee for this case.

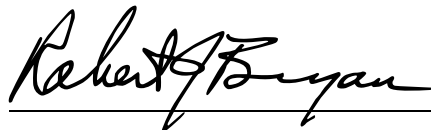
4 **III. ORDER**

5 It is **ORDERED** that:

- 6 • Plaintiff’s Motion to Voluntarily Dismiss Complaint (Dkt. 11) **IS GRANTED**;
7 • Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom (Dkt. 8)
8 and Plaintiff’s Motion to Extend Time (Dkt. 9) **ARE STRICKEN AS MOOT**;
9 • Plaintiff’s Motion for Waiver of Civil Filing Fees and Surcharges (Dkt. 12) **IS**
10 **DENIED**; and
11 • This case **IS CLOSED**.

12 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to
13 any party appearing *pro se* at said party’s last known address.

14 Dated this 19th day of October, 2016.

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17 ROBERT J. BRYAN
18 United States District Judge
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